

Chapter ??

ADMINISTRATION OF THE CARL MOYER PROGRAM

Note for Reviewers: This preliminary draft language includes commentary that describes the intent of some paragraphs. This commentary is noted in bold and starts with the word “Below:”. The commentary in bold is a guide for reviewers and will be removed in later drafts. Chapter language that you might want to focus on is also noted in italics. Language should reflect general consensus from Admin Work Group meetings to date (as noted in meeting e-mail summaries).

PART I. BACKGROUND AND DEFINITIONS

(Section 1) Background

This chapter formalizes the minimum administrative requirements that ARB and local air districts must follow to continue implementing a successful statewide Carl Moyer Program. The chapter outlines ARB’s responsibility for overall program administration and oversight. It also provides the minimum administrative requirements that districts must follow to ensure the program achieves SIP-creditable emission reductions. Chapter X describes Carl Moyer Program “Best Practices”, which go beyond this chapter’s minimum program requirements and describe how districts can run more effective and efficient programs. For Year 10, districts may choose to use either the 2005 Guidelines or the 2008 Guidelines and the relevant Program Advisories. However, districts must use the same Guidelines for all of one fiscal year’s funding. For Year 11 and subsequent years, districts must use the 2008 Guidelines and subsequent Program Advisories.

(Section 2) Definitions

At-Risk District. To be defined.

Carl Moyer Program Funds. Carl Moyer Program funds include both the state Carl Moyer Program funds awarded by ARB (as provided by statute) and air district \$2 motor vehicle fees (as per AB 923) obligated to Carl Moyer Program projects.

Clean Air Reporting Log (CARL). The Carl Moyer Program on-line project evaluation and tracking system.

Contract. A legally binding and enforceable agreement between an air district and a project applicant to complete a Carl Moyer Program project by a specific date.

Earned Interest. Interest generated from Carl Moyer Program funds received from the state and held in interest bearing accounts.

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Executed Contract. A Carl Moyer Program contract signed by the district Air Pollution Control Officer (APCO) or other designated representative and the project vehicle, engine, or equipment owner to make the contract valid and legally binding.

Expend. The payment of Carl Moyer Program funds on a project invoice for an eligible and fully operational engine, vehicle, or piece of equipment for the purposes of meeting the requirements of H & SC §44287(k).

Obligate. The committing of funds to a specific, eligible Carl Moyer Program application through Board project approval or project approval by a district APCO or other delegated authority.

Gold Star District. *A district which implements an exemplary Carl Moyer Program and has been granted the authority by ARB to run the program with greater autonomy. Specifics to be defined....*

Good Standing. *A district which has submitted the most recent required annual and final reports by the reporting deadline and whose reports demonstrate full contract execution and expenditure of funds as required by these guidelines. A district must also fully address ARB audit findings in a timely manner to be considered "in good standing".*

Rural District Assistance Program. To be defined.

PART II: ARB-AIR DISTRICT INTERACTIONS

Sections 2 through 9 are held for issues CAPCOA has asked to come up with ideas for – obligation and expenditure of previous year's funds in order to receive the next year's funding allocation, and protocols for returning Moyer funds that aren't spent within two years.

(Section 10) Match Fund Formula

(a) Districts participating in the Carl Moyer Program are required to provide \$1 in match funding for every \$2 of state Carl Moyer Program funding awarded by ARB, with a cap on statewide match funds at a total of \$12 million. The formula provided below is used to determine each district's required matching funds.

$$\frac{\text{Each district's annual allocation} * \$12,000,000}{\text{Total District Project Allocation}}$$

(b) A district receiving the minimum grant award of \$200,000 may request a waiver of the match fund requirement if the district can demonstrate appropriate staff commitment for program implementation and administration or if the district elects to donate its funding allocation to the Rural District Assistance Program.

(Section 11) Match Funds Sources

(a) District match funds must be under the district's fiduciary control. Funds allocated to an air district by the State of California, such as Lower Emission School Bus Program Funds or State bond funds, may not be used as Carl Moyer Program match funding. Districts may meet their matching fund requirement on an overall program basis, rather than a project-by-project basis.

Below: Description of which DMV fees must be spent on motor vehicle projects to count for match.

(b) Motor vehicle fees, including the AB 2766 - \$4 Motor Vehicle Registration Fee (\$4 MV Fee), and the AB 923 - \$2 Motor Vehicle Fee (\$2 MV Fee) have more restrictive requirements than other locally generated funds regarding what types of projects may count towards the Carl Moyer Program match requirement.

- i. Motor Vehicle Fees: The \$4 MV Fee and \$2 MV Fee must fund motor vehicle projects that meet the Carl Moyer Program criteria in order to be counted towards the district match requirement. Eligibility of motor vehicle fees to be counted towards the Carl Moyer Program match requirement are as follows:*
 - o Motor vehicle fees may not count towards meeting the Carl Moyer program match requirement if they fund locomotive, marine vessel, agricultural irrigation pump, or other non-motor vehicle project (H & SC §44287(j)). Table 2 identifies what source categories are considered motor vehicles for the purposes of match funding.*
 - o Motor vehicle fees may pay for incremental fuel costs or infrastructure costs consistent with Sections 12(a)(ii) and (iii) of this chapter. Fuel and infrastructure must be dedicated to a Carl Moyer Program motor vehicle project.*
 - o Motor vehicle fees may pay for light-duty accelerated vehicle retirement and repair programs that meet all Carl Moyer program criteria.*
 - o Motor vehicle fees used to fund Lower Emission School Bus Program projects may count towards the district match requirement if they meet the Carl Moyer Program cost-effectiveness threshold of \$X per weighted ton of pollutants reduced.*
 - o Motor vehicle fees may not pay for Agricultural Assistance Program projects (H & SC §44287(k)).*
- ii. Other Locally-Generated Funds: Locally generated funds which are not motor vehicle fees may be counted as match if they fund projects that meet all Carl*

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Moyer Program requirements and criteria, including those project types described in Sections 12(a)(i), (ii), and (iii).

Table 2
Eligibility of Motor Vehicle Fee Projects as District Match

Eligible	Not Eligible
Automobiles	Locomotives
Trucks	Marine vessels
Buses*	Stationary agricultural engines
Vans	Aircraft
Road graders	Refrigeration units
Earth movers	Auxiliary generators
Tractors	Welding machines
Golf carts	Pleasure craft
Motorcycles	Cranes
Self-propelled harvesters	
Forklifts	
Sweepers	

* Lower Emission School Bus Program projects must meet Carl Moyer Program cost-effectiveness and other criteria to count as match..

(Section 12) Eligible Types of Match Projects

(a) The types of projects that can be funded to meet the match funding requirement include:

- i. Carl Moyer Program Projects: Motor vehicle fees used as match funds may be used to pay for any motor vehicle project which meets all Carl Moyer Program criteria and requirements as specified in Section 11(b) of this chapter. Non-motor vehicle fees used as match funds may pay for both motor vehicle and non-motor vehicle projects that meet all Carl Moyer Program criteria.
- ii. Incremental Fuel Cost: Match funds may be used to pay for the incremental cost of liquid or gaseous fuel and electricity, other than standard gasoline or diesel, which is integral to a Carl Moyer Program qualifying project.
- iii. Infrastructure Projects: Match funds may be used for electric and alternative fuel infrastructure projects that serve Carl Moyer Program qualifying projects.
- iv. In-Kind Contributions: Up to 15 percent of a district's match requirement may be fulfilled through in-kind contributions. Districts may use any funds under their budget authority -- except for outreach funds districts receive from ARB as part of their annual program allocation and interest earned on Carl Moyer Program funds -- to cover their in-kind contribution. When using these other district funds for in-kind match, districts must follow all relevant guidelines and other legal

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requirements for expending those other funds. In-kind contributions must be made in the same fiscal year as the funds being matched, must be proportional to the time and amount dedicated to Carl Moyer Program activities, and shall not be carried over to other years. District in-kind match funds must be spent on program administration and outreach as described in Section 14, and meet the documentation requirements identified in Section 14.

(b) Interest earned on Carl Moyer Program funds received from ARB shall not be used for match funding.

(c) Funding provided by a port authority for a qualifying project or for infrastructure that serves a qualifying project may count toward the district's Carl Moyer Program matching fund requirement. No more than 30 percent of a district's match obligation may come from a port authority. Port authorities may participate through projects involving their own equipment, or by soliciting port tenants to apply for project funding.

(d) Private companies are not allowed to provide match funding to satisfy the districts' match funding obligation.

(e) Districts that fund ineligible projects or use ineligible sources for match funds shall ... (what are the consequences?) (DoF recommendation to define these)

Part II-D: Fiscal Issues

(Section 13) Earned Interest

Interest earned on Carl Moyer Program funds must be reported to ARB. The interest income must be used to fund projects that meet the current Carl Moyer Program Guidelines.

(a) Calculation of Earned Interest. If a district keeps its Carl Moyer Program funds in a non-segregated account, the district must maintain accounting records (e.g. general ledger) that first separates program funds from other funds administered by the district and then further separates earned interest and the related expenditures. The calculation of interest must be based on an average daily balance or some other reasonable method of reallocating the proceeds from the fund back into the program. Earned interest must be tracked such that it is separately identifiable from other program funds. Each district's methodology for calculating Carl Moyer Program interest must be consistent with how it calculates earned interest for its other fiscal programs.

(b) Earned Interest Expenditures. A district that segregates its Carl Moyer Program funds into project and program administration accounts must use all interest earned in the project account to fund eligible Carl Moyer Program projects, and may use interest earned in the program administration account for either program administration or Carl Moyer Program projects. A district that earns interest collectively on both project and

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administration funding can use up to five percent of interest earned in this account on administrative expenses if the district has one million or more inhabitants and up to ten percent of interest earned in this account on administrative expenses if the district has less than one million inhabitants. The remaining 95 percent or 90 percent of funds, respectively, must be spent on Carl Moyer Program eligible projects.

(c) Expenditure of Small Sums. Residual amounts of earned interest may also be combined with Carl Moyer Program and/or earned interest from previous years to fund a single project. When combining funds from different fiscal years, the district must use the Guidelines in effect at the time of the obligation.

Below: Interest earned in one fiscal year would be tracked with Moyer funds from the following fiscal year.

(d) Expenditure Timeline. *Earned interest must be obligated to projects with fully executed contracts by June 30th of the second fiscal year (24 months later) and expended by June 30th of the third fiscal year (36 months later) from the date it accrues in the district's account or, if applicable, is received by the district from an external account. Expenditure of earned interest may be tracked cumulatively, consistent with Section 20 of this chapter. Rural districts with insufficient earned interest to fund a project in any given year may have an additional year to obligate and expend these funds. Any district that does not expend its earned interest expeditiously, as outlined above, may be considered "at-risk".*

(e) Reporting. Earned interest must be tracked and reported with Carl Moyer Program funds from the year after it is accrued. For example, earned interest accrued in Year 9 shall be tracked and reported with Year 10 program funds. Districts must report on projects funded with earned interest the same way districts report on Carl Moyer Program-funded projects – by inputting projects in the CARL and in their Annual and Final Reports. ***Documentation of earned interest generation and expenditure must be retained for a minimum of X years.***

(Section 14) Program Administration and Outreach Funding

(a) District Funding. Air districts with one million or more inhabitants may use up to five percent of their Carl Moyer Program funds on program outreach and administration, while districts with under one million inhabitants may use up to ten percent of their Carl Moyer program funds.

(b) Allowable Costs. Administrative funds may only be used for costs associated with the tasks outlined in these guidelines and must be documented by the district. Administrative funds may be used for: district staff time; consultant fees; printing, mailing, and travel costs; project monitoring and compliance expenses; and indirect costs, such as general administrative services, office space, and telephone services.

Below: Documentation and tracking of admin funds has been recommended by DoF. Having districts describe their practices in the P&Ps may be more flexible than DoF would like, but this seems like a practical approach since districts have differing practices.

(c) Required Documentation. Districts must maintain documentation of Carl Moyer Program funds used for administration and outreach. Districts must keep the following documentation:

- i. Personnel documentation must make use of timesheets or other labor tracking software. Duty statements or other documentation must be used to verify actual hours or percent of time staff devoted to Carl Moyer Program administration and outreach.*
- ii. Consultant fees must be documented with copies of the consultant contract and invoices.*
- iii. Printing, mailing, and travel expenses must be documented with receipts and/or invoices.*
- iv. If travel and per diem expenses are used to document program administrative costs, allowable travel costs and per diem rates must be described in the district's Policies and Procedures Manual. District travel cost criteria must be consistent with the district's written travel policies for other district programs. Alternately, if these definitions are included in local administrative code or other document, the district may cite the document that governs its practices in the Policies and Procedures Manual.*
- v. Indirect cost calculation methodologies, if used to determine indirect costs of program administration, must be fully described or referenced in the district's Policies and Procedures Manual. Districts must maintain documentation for all costs referenced in the indirect cost calculation formula.*

*(d) The above documentation, records, and referenced materials must be made available for review during ARB or other State monitoring visits and audits. **These records must be retained for a minimum of X years.***

(e) Districts that charge unallowable costs for program administration or outreach shall ... (what are the consequences?) (DoF Recommendation to define these)

Part II-E: Reporting and Progress Tracking

(Section 15) Commitment of Project Funds

Below: List of how to show funds are committed to specific projects.

Commitment of funds is being distinguished from contract execution, which must be complete by June 30th after one year.

(a) Funds are considered to be committed to a project when the district officially selects an eligible project for funding through any of the following actions:

- i. The district's governing board approves a project for funding through a resolution, minute order, letter or other written instrument.*
- ii. The district's APCO or other Board-authorized representative sends the successful applicant a project offer letter.*
- iii. The district submits project applications it has approved for funding to CARL.*
- iv. The district provides ARB with spreadsheets describing approved projects.*
- v. The contract between the district and the owner is fully executed.*

(b) In the event previous years' funds were awarded to or under contract for projects that withdraw or were terminated, those funds shall be committed to other projects along with the current year's funds, following the current year's requirements. However, for tracking purposes, those funds must be reported with the correct previous year's reports.

(Section 16) Contract Execution

(a) Each year's Carl Moyer Program funds shall be committed to a project via executed contract between the district and the project engine, vehicle, or equipment owner or other legal representative by a district one year from June 30th of the year a district received its Grant Award and Authorization Form.

(b) Districts may demonstrate progress in executing contracts cumulatively, by substituting executed contracts for current year State Carl Moyer Program funding (i.e. early contract execution) for funds not yet under contract from a previous year.

(c) Executed contracts must meet all requirements of Section X of these Guidelines.

(Section 17) Annual Report

Below: Annual and Final Report deadlines moved to August 31st. Qualitative reporting is removed from the annual report. Some things, like outreach or EJ policies, would be reported in P&Ps. Districts in good standing could certify they have contracts rather than mailing contracts to ARB.

(a) Districts shall submit an annual report by or before August 31st of the year following their allocation. This report shall provide information regarding projects associated with funds received one year prior which are under contract by June 30th of that year. At a

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minimum, districts shall update all of their project information in the CARL, including date of contract execution.

(b) The annual report must include the following information for funds received one year prior:

- i. Project type, emission reductions, number of engines funded, and funds committed by executed contract for each Carl Moyer Program project, including match fund projects.
- ii. *Other projects funded as per the \$2 MV Fee (Light Duty Vehicle, Lower Emission School Bus, and Agricultural Assistance Programs). (still discussing reporting of AB 923 funds w/ CAPCOA)*
- iii. Interest accrued on Carl Moyer Program funds, and local matching funds.
- iv. Projects from previous funding cycles which were reported as under contract, which are no longer under contract, must be updated as such.
- v. Copies of executed contracts for all Carl Moyer Program projects (including match and earned interest projects) must be provided to ARB. Districts may make and submit one complete copy of their standard contract format and then submit only the pertinent pages (initial page, signature page and page describing the project) of the contract to ARB. Districts shall submit only one copy of each contract or the pertinent pages of each contract. Districts in good standing may provide a form signed by the APCO, Chief Fiscal Officer (CFO), and Carl Moyer Program manager certifying the funds under contract in lieu of copies of executed contracts.

(Section 18) Invoice Payment

Below: An invoice is considered fully paid when a payment is made on the invoice by the district. However, the payment must be for an on-the-ground operational vehicle or piece of equipment, and can't be for taxes, consulting, or something else that isn't in operation.

(a) Prior to paying for a delivered engine/vehicle or making final payment for completed project, the district must receive an invoice from the owner and complete a satisfactory post-inspection.

(b) By June 30th of each year, districts must have paid invoices for projects associated with all State Carl Moyer Program funds received the prior calendar year. Funds for a project are considered expended when an invoice for that project has been fully or partially paid by the air district.

(c) An invoice payment must cover charges for a new engine, vehicle, or piece of equipment which is currently operational in order for project funds for the contract to be considered fully expended and meeting the requirements under H & SC §44286(k).

(d) Districts may demonstrate progress in paying invoices cumulatively, by taking credit for funds paid on projects from the current or previous year of State Carl Moyer Program funding (i.e. early invoice payment) in place of funds not yet expended, consistent with Section 20 of this chapter.

(Section 19) Final Report

(a) Districts shall submit a final report to ARB no later than August 31st of the second year following the district's receipt of program funds. This report shall provide information regarding projects associated with funds received two years prior that have been expended by June 30th of that year.

(b) The final report shall include the following information for funds received two years prior. Districts tracking progress cumulatively must include the following information for funds expended early as needed to demonstrate overall expenditure of program funds within two years:

- i. Project type, emission reductions, number of engines funded, and funds committed by executed contract for each Carl Moyer Program project, including match fund projects.
- ii. *Other projects funded as per the \$2 MV Fee (Light Duty Vehicle, Lower Emission School Bus, and Agricultural Assistance Programs). **(still discussing reporting of AB 923 funds w/ CAPCOA)***
- iii. Interest accrued on Carl Moyer Program funds, and local matching funds.
- vi. Projects from previous funding cycles which were reported as under contract, which are no longer under contract, must be updated as such.
- iv. Copies of executed contracts, as listed in item two above, that obligate Carl Moyer Program and local match funds to projects, which were not previously submitted. Districts in good standing may provide a form signed by the APCO and Carl Moyer Program manager certifying the funds under contract in lieu of copies of executed contracts.

Below: Districts in good standing can certify they have invoices rather than send copies of these to ARB.

- v. Copies of invoices that document the amount Carl Moyer Program funds and local district match expended for each project. Districts in good standing may provide a form signed by the APCO, CFO, and Carl Moyer Program manager certifying the funds have met the expenditure requirements of the Carl Moyer Program in lieu of project invoices.

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- vi. A brief narrative specifying: results of environmental justice efforts, if any; results of outreach efforts to zero-emission and small business projects; monitoring and auditing efforts and results; enforcement actions and recaptured funds.
- vii. *A document signed by the district Chief Administrative Officer, Chief Financial Officer, and Carl Moyer Program Grant Administrator that project and financial data submitted is complete, accurate, and the district's responsibility, and that there are no known instances of fraud. (DoF's Recommendation #7)*

(c) In the event previous years' funds that were expended are returned to a district, those returned funds are to be committed to new projects along with the current year's funds, and following the current year's requirements. The district shall include the projects funded with the returned funds in the current year's Annual and Final Reports. For the purposes of progress tracking, these funds will continue to be considered expended.

(d) Receipt of an Annual or Final Report by ARB does not imply ARB approval of project eligibility. Air district staff is responsible for project approval and funding eligibility determinations.

(e) Districts that fund ineligible projects shall ... (what are the consequences?) (DoF Recommendation to define these)

(Section 20) Cumulative Progress Tracking

Below: Description of cumulative progress tracking.

(a) In meeting deadlines to obligate funds, execute contracts, or expend funds, ARB shall track district progress cumulatively. Cumulative progress tracking allows for comparison of the total funds spent by the expenditure deadline, regardless of the funding year, with the amount required to be expended at that deadline. For example, a district that must demonstrate expenditure of Year 8 funds by the two year statutory deadline, may utilize Year 9 funds expended early in place of Year 8 funds not yet expended. In this case, if the district had received \$5 million in total funding in Years 1 through 8, it would have to demonstrate \$5 million in cumulative fund expenditure.

(Section 21) Funding Year Close-Out

Below: Section b indicates to close out a year, all the money must be spent for that year. A partially paid invoice is considered fully expended, but a year won't be closed out until all the dollars are fully spent (no partially paid invoices). Is the language too convoluted?

(a) ARB shall "close out" each new funding year once a district has submitted all required reports and demonstrated that every dollar in State Carl Moyer Program funds

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allocated to the district for that year has been invoiced and all Carl Moyer Program funds associated with that year have been fully paid to projects.

(b) For the purposes of cumulative progress tracking, funds from a project are considered fully expended when an invoice for that project has been paid. However, in order to close out a year, all funds for a project must have been spent on an operational, in-use project and all contracts must be fully paid.

(c) Districts that have submitted the required Annual and Final Reports for Years 1 through 6 may close out their programs for these years by having the district APCO, CFO, and Carl Moyer Program manager certify in writing that the invoices for these projects have been paid in full. Alternately, a district may provide a copy of any invoices not already provided to ARB and contained in ARB project files.

(Section 22) Gold Star District

(a) A district shall be determined to be a Gold Star district based upon...

(b) A Gold Star district shall meet all the requirements of a district in good standing, with the exception of...

Remaining Admin Issues for Next Work Group Meetings

- Minimum Application Requirements
- Minimum Contract Requirements
- Minimum Admin/Project Criteria
- Pre- and Post-Inspections
- Invoice Review and Approval
- Project Annual Reporting
- District Audits of Projects
- Protocol for ARB Audits of Air Districts (also getting CAPCOA feedback)
- At-Risk Districts (also getting CAPCOA feedback)
- AB 923 Funds (also getting CAPCOA feedback)